

## HELPFUL HINTS FOR DRAFTING COMPLAINTS, MOTIONS, APPLICATIONS, AND ORDERS

(revised January 24, 2019)

1. Any pleading initiating a contested matter or an adversary proceeding should, at a minimum, be organized in the following manner: Section I should be entitled “Jurisdiction, Venue, and Constitutional Authority To Enter A Final Order” and should set forth how the court has jurisdiction, why venue is proper, and whether the court has constitutional authority to enter a final order. Section II should be entitled “Factual Background” and should set forth the factual allegations of the client; and Section III should be entitled “Relief Sought” and should set forth the specific relief requested by the client. Additionally, if appropriate, a Section IV should be added which is entitled “Legal Authorities in Support of the Relief Sought” and which discusses applicable case law and statutory grounds for why the court should grant the relief sought by the client. Counsel should make every effort to cite Fifth Circuit case law before resorting to the case law of other circuits.

2. Any pleading responding to a contested matter or an adversary proceeding that has been initiated should admit or deny each of the factual allegations and should specifically state what relief, if any, should be granted. Further, if appropriate, affirmative defenses should be raised and legal authorities may be cited. Counsel should make every effort to cite Fifth Circuit case law before resorting to the case law of other circuits.

3. All pleadings filed in this court should be specific in nature. For example, instead of simply styling the motion as “Motion to Lift Stay,” counsel should style the motion as “Motion of [name of client] for Relief from the Automatic Stay as to Certain Real Property Pursuant to 11 U.S.C. §362(d)(2) or, alternatively, Pursuant to 11 U.S.C. §362(d)(1).”

4. For every motion that is filed, a proposed order must also be filed. Failure to file a proposed order will likely result in the motion being dismissed. Further, counsel are strongly urged to bring proposed orders to the courtroom for submission to the Court at the close of any hearing.

5. To receive a hearing date on Motions to Extend or Impose The Automatic Stay, these guidelines must be followed within the first seven (7) days of the petition date:

- Motion must be filed
- Schedules I and J must be filed
- Certificate of Credit Counseling must be filed
- in a Chapter 13 case, a wage, ACH or EFT order must be filed

If these guidelines are not followed, the motion will probably be denied, without a hearing.

6. Add date line and signature line on all orders submitted as follows:

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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**Jeff Bohm**  
**U.S. Bankruptcy Judge**

7. If counsel wants an expedited hearing on a particular day, then counsel should make this request in the title of the pleading by inserting a parenthetical request in bold type face. Additionally, counsel should estimate the amount of time required for the hearing. For example, counsel should style the motion as “Emergency Motion of [name of client] to Dismiss Chapter 11 Case Pursuant to 11 U.S.C. §1112(b)(1) (**hearing requested for Tuesday, June 4, 2019 at 10:00 a.m.; estimated time: 2 hours**).” If possible, the court will schedule the hearing at the time requested. If this is not possible, then the court will schedule the hearing as close to the requested time as the court’s schedule will allow. Counsel should be judicious in deciding whether and when to ask for an expedited hearing.

8. It is very important that the Certificates of Service be signed and reflect the date that service was accomplished and on whom service was accomplished and what addresses (email or postal) were used. Please be sure to fill in the date on the Certificate of Service for each pleading that is filed.

**9. IN ANY PLEADING FILED BY THE DEBTOR REQUESTING RELIEF IN A CHAPTER 13 CASE, COUNSEL FOR THE DEBTOR MUST SET FORTH WHETHER THE DEBTOR IS CURRENT IN PAYMENTS TO THE CHAPTER 13 TRUSTEE. COUNSEL MUST SET FORTH THIS INFORMATION IN THE FIRST PARAGRAPH OF THE PLEADING.**

10. Please do not send letters to chambers discussing the merits of a contested matter or an adversary proceeding or requesting relief. Rather, file a motion and a proposed order. Please be sure to send copies of the motion and proposed order to opposing counsel. **FAILURE TO DO SO WILL PROBABLY CAUSE THE COURT TO DENY THE MOTION.**

11. Merely because all counsel have agreed to a continuance does not mean that this Court will grant a continuance. The motion for continuance must set out the specific reasons for the requested continuance, and the Court will thereafter issue an order that either grants or denies the continuance. **The motion for continuance and proposed order must be filed at least 72 hours in advance of the hearing.**

12. All orders submitted for approval of applications to employ professionals (including, but not limited to, accountants, attorneys and legal assistants) must have an exhibit attached setting forth the name of each professional who will be rendering services and the hourly rate of that professional. Further, all such orders must contain language setting forth that the hourly rates will not be increased without an express order from the court.

13. All applications of Chapter 7 Trustees seeking to employ their own law firm must contain a discussion of those factors set forth in *In re Vincent C. Jackson*, 484 B.R. 141 (Bankr. S.D. Tex 2012). Failure to contain a discussion of these factors will probably result in a denial of the application.

14. The attorney in charge of any debtor is forbidden to use “appearance attorneys” in any case over which Judge Bohm presides. Counsel are urged to read Judge Bohm’s Opinion in *In re Shontel & Sarika Bradley* 2013WL 3753559 (Bankr S.D. Tex July 16, 2013). In particular, section I of this Opinion discusses “appearance attorneys” and the reasons that Judge Bohm will not permit the use of such attorneys in cases over which he presides.

15. When seeking approval of fees and expenses in Chapter 13 cases when counsel is billing on an hourly basis (as opposed to do the fixed fee arrangement applicable to this District), counsel must file an application discussing the factors set forth in *In re First Colonial Corp of Am.*, 544 F.2d 1291 (5<sup>th</sup> Cir. 1977). Counsel must attach his/her invoices to this application, as well as the Chapter 13 Fee Application Summary.

